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May 23, 2016

VIA ELECTRONIC MAIL TO JJORDAN@FEC.GOV

Jeff S. Jordan, Esquire
Assistant General Counsel, Complaints Examination & Legal Administration
Office of the General Counsel
Federal Election Commission
999 E Street NW
Washington, D.C. 20436

Re: MUR 7056

Dear Mr. Jordan:

We represent Mr. Roberto Larrinaga in the above-captioned matter under review ("MUR"). In summary, the Federal Election Commission ("Commission") should dismiss the complaint ("Complaint") submitted by Mr. Tyler Erdman ("Complainant") as against Mr. Larrinaga pursuant to 11 CFR §§ 111.6 and 111.7. No "reason to believe" exists that Mr. Larrinaga violated federal campaign finance law and regulations. Nor, moreover, does the Commission have jurisdiction over Complainant's irresponsible and false claim that Mr. Larrinaga entered into a criminal conspiracy, punishable under Title 18 of the United States Code, with Respondents, Mr. Adam Victor and the Committee to Elect Herman Cain ("Cain Committee").

In summary, the Complaint presents a novel and inappropriately expansive concept of liability under Commission decisions—that a banker can violate the Federal Election Campaign Act, as amended, or Commission regulations by complying with a client's request to issue a contribution check to a federal campaign committee. The Commission never has extended, and never reasonably could extend, any duty to the public record to such an illogical extent. The Commission need not resolve the Complainant's baseless and overreaching legal claims against Mr. Larrinaga, however, because Complainant erroneously alleges the basic facts.

More specifically, Counts Seven, Eight, Nine, and Ten of the Complaint allege Mr. Larrinaga "substantially aided" Mr. Victor in making contributions in the names of his children (Victor, Jr., Alexia, Alia, and Jo-Ayla, respectively).

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Mr. Larrinaga did not, however, aid Mr. Victor at all, not to mention "substantially," in making any such contributions. Mr. Larrinaga avers in his attached declaration that the requests for contributions to the Cain Committee by Mr. Victor's family members were made and fulfilled when Mr. Larrinaga was on vacation. Furthermore, during his vacation, Mr. Larrinaga "did not check [his] work email and did not handle, or assist in handling, the private banking affairs of Mr. Victor or any other client of Signature Bank." Declaration of Roberto Larrinaga ("Larrinaga Declaration"), ¶¶ 4, 5. Any such request or requests were fulfilled in his absence. *Id.*, ¶ 6.

Nor, moreover, did Mr. Larrinaga provide any false information to the Cain Committee, as Complainant alleged in Count Eleven. Specifically, the Complaint alleges Mr. Larrinaga falsely represented Mr. Adam Victor, Jr.'s employment status as "unemployed" to the Cain Committee. As Mr. Larrinaga avers, however, he did not communicate in any form with that Committee regarding Mr. Victor, Jr.'s employment status. Larrinaga Declaration ¶ 7.

Finally, Count Twelve alleges Mr. Larrinaga engaged in a criminal conspiracy with Mr. Victor and the Cain Committee. Count Twelve lacks any factual basis because Mr. Larrinaga did not act "in cooperation with" Mr. Victor, or anyone else, "to have money transferred from [Mr. Victor's] children's accounts at Signature Bank to the Cain Campaign." See Larrinaga Declaration, ¶ 8.

Further, Count Twelve alleges a criminal conspiracy pursuant to 18 U.S.C. § 371. The Commission lacks jurisdiction over violations of 18 U.S.C. § 371, and the Commission should dismiss Count Twelve for this additional reason, as well.

For the foregoing reasons, the Commission should dismiss the Complaint as against Mr. Larrinaga.

Please do not hesitate to contact me if you have any questions or require additional information.

Respectfully submitted,



David E. Frulla

Counsel for Roberto Larrinaga

cc: Mary Beth deBeau

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DECLARATION OF ROBERTO LARRINAGA

I, Roberto Larrinaga, depose and state as follows:

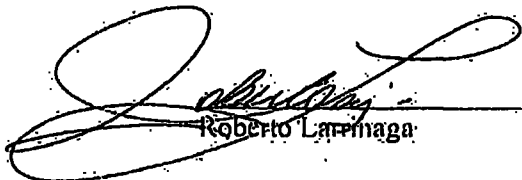
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1. I am over the age of eighteen and am competent to make this Declaration.
2. I make this Declaration based on personal knowledge that I gained in my capacity as Senior Client Associate, PCG-III, Signature Bank.
3. As a Senior Client Associate at Signature Bank, I participated in a client service team that furnishes Mr. Adam Victor and his family with private banking services.
4. I was away on vacation from November 7, 2011, through November 21, 2011.
5. During my vacation, I did not check my work email and did not handle, or assist in handling, the private banking affairs of Mr. Victor or any other client of Signature Bank.
6. When I returned from vacation, I learned that Signature Bank had, on November 9, 2011, issued the five contribution checks at issue in this Matter Under Review.
7. At no time did I communicate with the Committee to Elect Herman Cain regarding the employment status of Mr. Adam Victor, Jr.
8. At no time did I assist Mr. Victor, or anyone else, to arrange to have money transferred from Mr. Victor's children's accounts at Signature Bank to the Committee to Elect Herman Cain.

Further Declarant sayeth not.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on: May 20, 2016


Roberto Larrinaga

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